

MINUTES
REGULAR WORKSESSION
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
February 2, 2010
5:00 p.m.

CALL TO ORDER

Mayor Krieger called the City Council meeting to order at 5:00 p.m.

Councilmembers Present: Stuart, Mendoza, Beeson, McClendon, Brooks-Gurrola, Johnson and Mayor Krieger
Councilmembers Absent: None
Staffmembers Present: City Administrator, Mark S. Watson
Deputy City Administrator, Robert L. Stull
Director of City Engineering, Paul E. Brooberg
Director of Community Development, Laurie Lineberry
City Attorney, Steven W. Moore
Fire Chief, Jack McArthur
Interim Deputy Chief of Police, John Lekan
Various department heads or their representatives
City Clerk, Brigitta M. Kuiper

I. SUMMARY OF CURRENT EVENTS

Watson reported the following:

- A news release was issued earlier in the afternoon announcing planned lane closures on Arizona Avenue north of 16th Street in order to allow for repair of roadway damage caused by recent storms.

II. REGULAR CITY COUNCIL MEETING AGENDA OF FEBRUARY 3, 2010

Motion Consent Agenda Item B6: Intergovernmental Agreement with City of Somerton

Brooberg explained that the proposed Intergovernmental Agreement (IGA) with the City of Somerton is identical to an existing IGA with Yuma County for maintenance of traffic signals ranging from repair and replacement to signal operation programming. Although one other group in town can install new signals, the City of Yuma is the only local group qualified to perform maintenance of traffic signals. The City of Somerton received a turnback from the State of Arizona, and received no responses from any other party interested in performing their signal maintenance.

Mayor Krieger added that another option would be for a Phoenix-based company to perform the signal maintenance for the City of Somerton, which would not be cost effective. **Brooberg** said the only other option for securing the same service level would be to pursue a formal Request for Qualification (RFQ) which would result in the City of Somerton paying a higher price for signal maintenance. **Watson** identified responsiveness as a base need of the City of Somerton, and said that if for any reason the City of Yuma is unable to meet needs, the IGA can be discontinued with appropriate notice. **Mayor Krieger** indicated that signal maintenance is an important element of

public safety that cannot be neglected and the City of Yuma cannot refuse to assist the City of Somerton in this regard.

Ordinance O2010-11: Zoning Code Text Amendment to allow several commercial uses as permitted uses in the Light Industrial (L-I) District

Lineberry explained that at the December 14, 2009 meeting of the Planning and Zoning Commission, an applicant requested changes to the light industrial zoning classification to allow for support commerce facilities in industrial parks of at least 40 acres in size. During the meeting numerous attempts were made to clarify language that would allow for such change, but ultimately the language adopted differed slightly from what was discussed and intended, prompting staff to approach City Council with alternate language for the zoning code text amendment.

McClendon requested an example of what the amendment would accomplish. **Lineberry** referenced the Rob Ingold Industrial Park Development at Avenue 7E that covers over 40 acres, and said that although many employees work at the site, there are no businesses nearby where they can purchase food, photocopy services, and other support services. The idea behind the text amendment is to allow support businesses to service the industrial areas. **McClendon** indicated it is a win-win situation to open the door to lighter industry because more business means more jobs.

Lineberry noted that a restaurant commercial use not associated with the industrial park would not be allowed; the idea is to help grow the industrial areas.

III. PALO VERDE WALL REVIEW

Watson advised that the City Attorney and City Engineer will provide an historical background of the Palo Verde wall issue, which was placed on the agenda in response to direction from Mayor Krieger, and noted that City Council will have the ability at the February 3, 2010 City Council meeting to adopt a motion and provide staff with direction on how to proceed. He added that any legal questions can be addressed afterward in executive session. The following points were mentioned:

- A segment of roadway immediately adjacent to the east side of the wall has never been constructed, so removal of the wall would trigger the need for tens of thousands of dollars worth of associated design work, construction and curbing on the east side of the wall.
- The wall removal project is in the "wish list" section of the Capital Improvement Program (CIP) and was not anticipated to occur within the next 10 years.

Brooberg displayed an aerial photograph taken one year prior to a permit being issued for construction of the wall showing a residential subdivision to the west (of the wall) and open desert land to the east, which has since been developed into the Wal-Mart shopping center. He gave the following account of events concerning the Palo Verde wall:

- In September of 1987, the home owner on the west side of the open desert land, and south side of Palo Verde Street, applied to the City of Yuma to construct a wall across the end of Palo Verde Street to help keep dust, trash and tumbleweeds from blowing into the subdivision from the adjacent desert land.
- The wall was constructed in late September or early October of 1987.
- Commercial properties on the east side of the wall subsequently developed.

Displaying a current aerial photograph of the same area, **Brooberg** made the following observations:

- Palo Verde Street immediately east of the wall is a patch of bare dirt that was not paved in conjunction with the adjacent commercial development.
- Only one undeveloped dirt lot remains east of the wall and it has been treated for dust control.
- The only change made to the wall since original construction was a City storm water project that created an opening in the wall that has been used by pedestrians.

In response to Stuart, **Brooberg** indicated on the photograph the residential site near Palo Verde Street where a Harrier crashed in 2005.

Johnson stated that at the unpaved section of Palo Verde Street, there is an approximate 3-foot grade difference between the pavement on the east and west sides of the wall. **Brooberg** concurred, adding that the elevated side lies to the east along the rear of the former Max Club. **Johnson** inquired as to the path of storm water runoff for the residential subdivision (west side of wall) and commercial development (east side of wall). **Brooberg** indicated residential runoff flows to the west, then south along Winsor Avenue and Kuhns Court, while a gutter next to Max Club carries storm water from the commercial area into the Bark Park.

Mendoza requested the estimated cost of opening up Palo Verde Street. **Brooberg** estimated a cost of \$80,000 which would include design, construction and inspection activities. **Mendoza** inquired as to the funding source. **Brooberg** indicated the funding source would be either an existing project, a project with excess funds, a project that cannot be completed this fiscal year, or a project of lower priority. He suggested as a possible funding source, the 1st Street project between Avenues B and C.

Mendoza questioned whether calls for or against removing the Palo Verde wall have been received recently. **Brooberg** reported having received no such calls for several years.

Moore provided a perspective on 2 legal issues associated with the Palo Verde wall:

- Ownership: The wall was originally constructed by a former City employee which brought into question whether the wall was owned by the City of Yuma or the individual. Amid discussions of whether the wall should be condemned or dedicated to the City, someone crashed into the wall forcing the City to remove it for safety purposes and install standard barricades. From that point forward, any wall or structure at that same site was constructed with City approval.
- Initiative Petition / Lawsuit: Once the new wall was constructed and City Council decided it would remain in place, Mr. Hugh Winderweede – a resident of 26th Place – took out an initiative petition to have the wall removed and obtained sufficient signatures to qualify for placement on the ballot. Immediately thereafter, Mr. Thadeus Baker – a resident of Palo Verde Street – filed suit challenging whether the matter could appropriately be included as a ballot initiative. Local judges all declared conflicts, so Judge Howell from Maricopa County tried the case in Yuma County and found the ballot measure was administrative in nature and therefore struck the language from the ballot. Additionally, the judge found the measure was an initiative of special applicability – or special legislation – that may be inappropriate under Arizona law, and further, that the City Council decision in 1991 to keep

Palo Verde Street closed was a legislative policy pursuant to zoning ordinances contained in the general plan of that time.

Watson stated the matter of whether to remove the Palo Verde wall is essentially an administrative action of City Council that can be accomplished in the form of a motion and direction to staff to either move forward or take no action. He suggested options for courses of action by City Council:

- Enlist public comment through the Call to the Public.
- Provide staff with direction on how to proceed, leaving staff to address the monetary details.

Watson commented that providing an alternative vehicular access to the traffic signal at Palo Verde Street and Pacific Avenue would be beneficial to the subdivision residents as well as winter visitors to the country club. He additionally recognized the benefit of improving access to 32nd Street from Winsor Avenue.

Johnson asked about the availability of current traffic count data on Palo Verde Street and 26th Place between Pacific Avenue and Arizona Avenue. **Brooberg** recalled detailed information is available from the Yuma Metropolitan Planning Organization (YMPO) in the form of a consultant study completed in 1991. **Johnson** indicated no recollection of a count station on either 26th Place or Palo Verde Street, and requested any such existing count information be provided to City Council before tomorrow's City Council meeting. **Brooberg** agreed to request such information from YMPO.

Stuart questioned whether the 1991 consultant's report was completed prior to the intersection of Pacific Avenue and Palo Verde Street becoming a commercial draw. **Brooberg** recalled the report was completed at about the same time that Wal-Mart opened, but noted that neither the adjoining strip mall nor the property north of Palo Verde was developed.

Mendoza expressed the following concerns:

- Any traffic count performed on a closed street would produce a false negative count.
- A traffic count performed on 26th Place would capture a considerable amount of residential traffic from the neighborhood, which would not be distinguishable from cut-through traffic.
- The consultant's report is 19 years old and local traffic needs have changed vastly during the period since then.

Mendoza asked whether the City has ever transferred money from one road project to another to address a non-emergency issue. **Brooberg** replied in the affirmative, noting it is commonplace during any fiscal year to move money from one project to another. As an example, he shared that City Council once decided to downsize the scope of a full reconstruction of Arizona Avenue between 16th and 24th Streets to a simple repaving project so that funding could be shifted to the Avenue A project.

Mendoza explained his regular job involves considerable local travel and that he has noticed huge potholes all over town since the rains of recent weeks. He speculated that \$80,000 could patch a lot of potholes.

Johnson asked if 26th Place, where it intersects with Pacific Avenue meets the warrants for a traffic signal. **Brooberg** indicated that the intersection of San Marcos (not 26th Place) with Pacific Avenue was studied several times and did not meet the warrants for signal installation.

Stuart reported hearing conflicting stories concerning the number of automobile accidents at the intersection of Palo Verde Street and Arizona Avenue, and requested clarification on the actual number of accidents. **Brooberg** replied he would work with the Police Department and YMPO to find an answer.

Referring to an aerial map, **McClendon** pointed out that emergency vehicle access to the Harrier crash site would not necessarily have been improved had the wall been down. She noted that none of the front yards on Palo Verde are fenced, and expressed concern about increased danger to children should the residential street become a throughway to a commercial area. **Brooberg** characterized the wall issue as a neighborhood argument, with the City not having promoted a position one way or the other. **Moore** explained the initiative petition was the attempt to remove the wall while City Council's action was merely to place the measure on the ballot.

Mayor Krieger indicated that public comment on the Palo Verde wall will be taken at the Call to the Public during City Council's regularly scheduled meeting of February 3, 2010. He offered his personal perspective on the wall:

- Controversy surrounding the wall began in 1987 and remains ongoing to the present.
- The City temporarily fixed a problem with the wall in 1991 and no modification has occurred since, in spite of tremendous growth and change in the community.
- The wall limits emergency vehicle access to the residential area thereby creating safety issues.
- Removing the wall would provide a new east/west route connecting 4th Avenue with Avenue 3E, and thereby alleviate traffic congestion and safety problems along the existing east/west corridors of 32nd Street, 26th Place, 24th Street and 16th Street.
- The intersection of Palo Verde and Arizona Avenue has experienced very few traffic accidents over the years; with increased traffic flow through the intersection, drivers will have a natural tendency to exercise greater caution.
- A possible solution to the intersection of Palo Verde and Arizona Avenue would be to install large "4-Way Stop" signage on all approaches.
- Residents who utilize Winsor Avenue are at risk when turning left onto 32nd Street.
- Yuma hosts visitors from 3 countries and 40 states who all drive differently and would benefit from direct access to Pacific Avenue from Palo Verde.
- Millions of dollars will be spent on 12th Street to build a bridge over the canal to continue through a residential neighborhood, while connecting Palo Verde with nearby roadways would cost only \$80,000.
- Between 4th Avenue and Avenue A, motorists can drive from 16th Street south to 32nd Street via several north/south routes passing through neighborhoods where children live and play.
- Emergency vehicles have great difficulty due to their length and weight with negotiating tight turns; removal of the wall would facilitate connectivity and shave minutes off disaster response time for the area.
- CIP project monies are commonly shifted in response to traffic needs, project changes and City Council changes.
- Pothole repair is funded from a different revenue source than the CIP, making it questionable whether CIP monies can be used to patch potholes.
- It is doubtful that many children play in the road.

- The neighborhood bounded by Arizona Avenue, 24th Street, 4th Avenue and 16th Street provides a huge number of north/south and east/west routes where traffic manages to move along in spite of the presence of thousands of neighborhood children.
- The initiative petition to remove the wall collected the required number of signatures, suggesting a community sentiment to remove the wall.
- Community dynamics change over time, and east of the wall now exists a shopping center that could potentially benefit from increased customer traffic due to the wall being removed.
- In the year 2010, it is necessary the community think about its future to a greater extent than it did on many issues in the past.
- After 25 years, the time is right to finally do what is right by tearing down the wall and moving traffic along.

McClendon requested a perspective on emergency access from police and fire representatives, specifically whether removal of the wall will create greater access for emergency response vehicles.

McArthur said the Fire Marshall would not currently allow creation of a dead end that is out of compliance with City Code, and would also call for 2 exit points for a neighborhood. **Mendoza** asked whether a fire emergency vehicle responding to a call from the residence located against the wall would need to eventually back down the street. He also asked whether responding units from Fire Station #3 are familiar with which routes to take. **McArthur** said when responding crews have an address, the wall does not impede response because crews know how to get around it. He recalled one instance when the wall impeded fire emergency response, and speculated the problem occurred as a result of the responders not having an address or routing information, but instead seeing smoke and heading in that general direction only to find upon reaching the wall that the fire was just beyond it.

McClendon inquired as to safety issues for the police as a result of the wall. **Lekan** concurred in part with **McArthur**, but noted the Police Department is impacted to a lesser degree than the Fire Department due to police vehicles being smaller and more maneuverable. Armed with an address, he said police have no difficulty responding to calls in the vicinity of the wall. However, he noted that with development on the East Mesa out to Avenue 9E, units are increasingly present east of Yuma proper and would benefit from an additional westerly route back into town via Palo Verde.

Beeson asked **Brooberg** to provide by the February 3, 2010 City Council meeting a list of other locations where a commercial area next to a low-density residential area has been a workable situation. **Brooberg** indicated he would search for an answer, and provided clarifications in response to earlier questions:

- Regarding pothole repair, operation and maintenance funds are different from capital improvement funds.
- The 60-foot right of way for Palo Verde has been in place for over 40 years.

Mendoza mentioned the newly opened Bark Park draws additional families and children to the Palo Verde residential area, and asked **Brooberg** to find out the number of daily visitors to the park.

Johnson asked about "The Dunes" subdivision, specifically, whether normal vehicular access is limited to a single point at 32nd Street. **Brooberg** replied in the affirmative. **Johnson** recollected measures were taken to create a gated emergency access point. **Brooberg** explained the developer was required to build a water line as well as an emergency vehicular access from the southernmost cul de

sac to 40th Street. **Johnson** stated that regulations requiring multiple points of subdivision access have been in place for a long time and that Palo Verde is the only subdivision that does not comply with such regulations.

Brooks-Gurrola noted that a number of residents have expressed interest in seeing the wall removed, and asked who does not want to see the wall removed. In response, **Watson** mentioned having recently met a new arrival to the Palo Verde neighborhood who said she liked the neighborhood because of the wall and did not want to see it removed. He indicated no knowledge of whether there is an organized community effort either for or against the wall.

Brooks-Gurrola asked whether the City has received any letters or petitions in opposition to removing the wall. **Watson** indicated receiving no such correspondence personally, but noted that City Council may have. **Beeson** mentioned having received a couple of e-mails and one phone call in favor of leaving the wall in place.

IV. ADDITIONAL ITEMS FOR POSSIBLE DISCUSSION

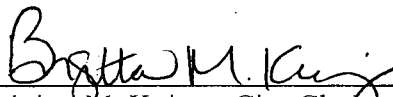
Johnson reported attending a meeting of the Rural Transportation Advisory Council (RTAC) in Phoenix on January 22, 2010; the meeting focus was on a second stimulus funding package and the bundling of projects.

Mayor Krieger mentioned having met with BetterYuma.org and a contractors association for a frank discussion about issues of concern and the City's direction relative to these groups and their interests. He expressed an interest in expanding such discussions to other interest groups as well.

Mayor Krieger advised of plans to attend the Governor's Centennial Summit to learn what other communities are planning for Arizona's upcoming Centennial celebration.

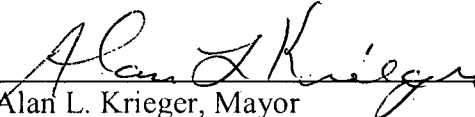
V. ADJOURNMENT/EXECUTIVE SESSION

Motion (Johnson/Beeson): To adjourn the meeting into Executive Session. Voice vote: **adopted 7-0**. The meeting adjourned at 6:24 p.m.



Brigitta M. Kuiper, City Clerk

APPROVED:



Alan L. Krieger, Mayor

